



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 13, 2010

Ms. Teresa J. Brown  
Senior Open Records Assistant  
City of Plano Police Department  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2010-10412

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID#386422.

The Plano Police Department (the "department") received a request for all records of incidents occurring at a specified address and those involving a named individual from 2007 through 2010. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *See id.* at 681-82. The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* includes information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. This office has found that a compilation of an individual's criminal

history is also highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Further, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

In part, the present request requires the department to compile unspecified law enforcement records concerning the individual named in the request. Therefore, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note the second portion of the request seeking all records pertaining to a specified address is not a request for a compilation of any individual's criminal history and does not implicate any individual's right to privacy. You have submitted information that does not list the named individual as a suspect, arrestee, or criminal defendant. Because this information does not implicate the privacy interests of the named individual, it may not be withheld on the basis of common-law privacy. Accordingly, we will address your remaining arguments against disclosure of this information.

Section 552.101 also encompasses section 261.201 of the Family Code, which provides as follows:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Based on your representation, we agree Report #2010-00040249 was used or developed in an investigation of alleged or suspected child abuse under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). *See id.* § 261.001(1)(A) (defining abuse for purposes of Fam. Code ch. 261). As you do not indicate that the department has adopted a rule that governs the release of this type of information,

we assume that no such rule exists. We therefore conclude that Report #2010-00040249 is confidential under section 261.201(a). Accordingly, Report #2010-00040249 must be withheld in its entirety under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information in Exhibit E relates to pending criminal investigations. Based on your representation, we conclude that section 552.108(a)(1) is applicable to the information in Exhibit E. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

Section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). You state the information in Exhibit E is referred to as call response reports, which you state are generated on any call into your 9-1-1 call center. You assert that because no other information is available concerning these reports, that they should be withheld in their entirety. In Open Records Decision No. 649 (1996), this office concluded that information contained in a computer-assisted dispatch report is substantially the same as basic information. *See* ORD 649 at 3; *see also* Open Records Decision No. 394 at 3 (1983) (there is no qualitative difference between information contained in radio cards or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*; thus, such information is generally public). Upon review, we find the submitted call response reports contain basic information. Accordingly, Exhibit E may not be withheld in its entirety under section 552.108 of the Government Code. Therefore, with the exception of basic information, the department may withhold the information in Exhibit E under section 552.108(a)(1) of the Government Code.

In summary: 1) to the extent the department maintains any records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold this information under section 552.101 in conjunction with common-law privacy; 2) the department must withhold Report #2010-00040249 under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code; 3) with the exception of basic information, the department may withhold the information in Exhibit E under section 552.108 of the Government Code. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'VB', with a long horizontal flourish extending to the right.

Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/jb

Ref: ID#386422

Enc. Submitted documents

c: Requestor  
(w/o enclosures)